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No. 35]

NEW DELHI, SATURDAY, OCTOBER 28, 1995/KARTIKA 6, 1917

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)

PART II—Section 3—Sub-section (iii)

केन्द्रीय अधिकारियों (संघ राज्य क्षेत्र प्रशासनों के छोड़कर) द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than the Administrations of Union
Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 9 अक्टूबर, 1995

आ.अ. 75.—भारत निर्वाचन आयोग निर्वाचन अर्जी सं. 11/94, 12/94 और 13/94 में दिल्ली उच्च न्यायालय
नई दिल्ली के तारीख 9-8-94 के आदेशों को लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण
में इसके द्वारा प्रकाशित करता है।

[सं. S 2/सी. एम-एन सीटी/11-13/94]

आदेश से,

सी. आर. ब्रह्म, सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 9th October, 1995

publishes the Orders of the High Court of Delhi at
New Delhi dated 9th August, 1994, in Election
Petition Nos. 11/94, 12/94 and 13/94.

[No. 82|CS-NCT|11-13|94]

O.N. 75.—In pursuance of section 106 of
the Representation of the People Act, 1951 (43 of
1951), the Election Commission of India, hereby

By Order,
C. R. BRAHMAM, Secy.

आदेश

नई दिल्ली, 9 अक्टूबर, 1995

आ.अ. 76.—जबकि, निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट नवम्बर, 1993 में हुए राष्ट्रीय राजधानी राज्यक्षेत्र दिल्ली की विधान सभा के साधारण निर्वाचन के लिए जो स्तम्भ (3) में तदनुरूपी विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, के स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्वीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथावर्णित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है,

और जबकि, उक्त अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायौचित्य नहीं है,

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य-क्षेत्र की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए एतद्वारा निरहित घोषित करता है।

सारणी

क्रम सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की क्रम सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहता का कारण
1	2	3	4	5
1.	राष्ट्रीय राजधानी राज्य क्षेत्र दिल्ली की विधान सभा के लिए साधारण निर्वाचन, 1993.	31—महिपालपुर	श्री दयाराम क्रांतिकारी, गांव एवं पो. आ.—रंगपुरी, नई दिल्ली-110037.	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।
2.	—वही—	47—रोहतास नगर	श्री राज कुमार, 8/4342, रामनगर विस्तार, शाहपुरा.	विधि द्वारा अपेक्षित रीति से निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहे।
3.	—वही—	67—राजेन्द्र नगर	श्री विजय कुमार, सी-304, जे.जे. कालोनी, इन्द्रपुरी, नई दिल्ली-12.	—वही—
4.	—वही—	—वही—	श्री पूरन चन्द, ए-91, बुद्ध नगर, इन्द्रापुरी, नई दिल्ली.	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।

[सं. 76/दिल्ली-वि.स./94(6)]

आदेश से,

धनश्याम खोहर, सचिव

ORDER

New Delhi, the 9th October, 1995

O.N. 76.—Whereas, the Election Commission of India is satisfied that the contesting candidates specified in column (4) of the table below at the General Election to the National Capital Territory of Delhi Legislative Assembly held in November, 1993, as specified in column (2) and held from constituency correspondingly specified in column (3) against their names have failed to lodge account of their election expenses, as shown in column (5) of the table, as required by the Representation of the People Act, 1951, and the Rules made thereunder ;

And whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure ;

Now, therefore, in pursuance of section 10-A of the said Act, the Election Commission hereby declares the person specified in Column (4) of the Table to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this order.

TABLE

S. Particulars of election No.	No. and Name of Constituency	Name and address of contesting candidates	Reason for disqualification
1	2	3	4
1. General Election to the National Capital Territory of Delhi Legislative Assembly, 1993.	31—Mahipalpur	Sh. Daya Ram Karantikari Village & P.O. Rangpuri New Delhi-110037	Failed to lodge any account of election expenses
2. -do-	47—Rohtas Nagar	Sh. Raj Kumar 8/4342, Ram Nagar Vistar, Shahdara.	Failed to lodge the account of election expenses within the manner required by law.
3. -do-	67—Rajinder Nagar	Sh. Vijay Kumar C-304, J.J. Colony, Inderpuri, New Delhi-12.	-do-
4. -do-	-do-	Sh. Puran Chand A-91, Budh Nagar, Inderpuri, New Delhi.	Failed to lodge any account of election expenses.

[No. 76/DL-LA/94(6)]

By Order,

GHANSHYAM KHOHAR, Secy.

आदेश

नई दिल्ली, 9 अक्टूबर, 1995

आ.आ. . . . 77.—निर्वाचन आयोग का समाधान हो गया है कि सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट उड़ीसा विधान सभा के साधारण निर्वाचन के लिए स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तबसे बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा वर्णित अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है,

और, उक्त अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्योवेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है।

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य-क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निहित घोषित करता है।

सारणी

क्रम. सं.	निर्वाचन का विवरण	विधान सभा निर्वाचन-क्षेत्र की क्रम. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरर्हता का कारण
1	2	3	4	5
1.	उड़ीसा विधान सभा के लिए साधारण निर्वाचन, 1995	39—किस्सन नगर	श्री पदमाला मिश्र, ब्राह्मण भुई कालारानंका, रघुनाथ पुर, जिला कटक, उड़ीसा।	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे

1	2	3	4	5
2.	उड़ीसा विधान सभा के लिए साधारण निर्वाचन, 1995	39—किस्सन नगर	श्री रत्नाकर दलाई पाल्दा, नेमला कटक, उड़ीसा।	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।
3.	—वही—	46—बन्की	श्री कान्हू चरण माझी, ग्राम धोलाकांठा, डाकघर टालाबस्ता, जिला कटक, उड़ीसा।	—वही—
4.	—वही—	95—खरिग्रर	श्री इन्द्रमणि बघेल, स्थान डाकघर नेहेना, जिला नवापाड़ा, उड़ीसा।	—वही—
5.	—वही—	—वही—	श्री पुराना सतनामी स्थान/डा. घर सादी, जिला नवापाड़ा, उड़ीसा।	—वही—
6.	—वही—	106—तितिलगढ़ (अ. जा.)	श्री भक्त बन्धु वीप, स्थान/जामकानी, डा. घ. बंकेल, थाना सिर्वेकला, जिला बोलानगीर, उड़ीसा।	—वही—
7.	—वही—	107—कांताबांजी	श्री अमर बिस्वाल, स्थान सारेइबहार, डा. घ. टांकापाणि, थाना खापराखोल, जिला बोलंगीर, उड़ीसा।	—वही—
8.	वही—	—वही—	श्री प्रियाम सुन्दर मेहर, स्थान मालपाड़ा, डा. घर बागडोर, थाना खापराखोल जिला बोलंगीर, उड़ीसा।	—वही—
9.	—वही—	117—हिण्डाल (अ. जा.)	श्री कालिया नायक, स्थान/ फांसीगांव, डा. घर कालिका प्रसाद, थाना—रासोल, जिला धेनकनाल, उड़ीसा।	—वही—
10.	—वही—	118—धेनकनाल	श्री बेदध्याना पांडा, देउलसाही, जिला धेनकनाल, उड़ीसा।	—वही—
11.	—वही—	—वही—	श्री ध्रुवनायण जी, सिनेमा रोड, धेनकनाल, जिला धेनकनाल, उड़ीसा।	—वही—
12.	—वही—	—वही—	श्री रवीन्द्र नायक, खमारसाही, डा. घ. और जिला धेनकनाल, उड़ीसा।	—वही—

1	2	3	4	5
13.	उड़ीसा विधान सभा के लिए साधारण निर्वाचन, 1995	119—गोंडिया	श्री शालीनाथ, स्थान उमाकान्तपुर, पो. ओ. महापाद, जिला धनकनाल, उड़ीसा।	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहे।
14.	—वही—	121—पाललहार	श्री भागाबन प्रधान, ग्राम/डा. घ. जयपुरा, कटेनी, जिला धनकनाल, उड़ीसा।	—वही—
15.	—वही—	—वही—	श्री सत्यवादी साहू, ग्राम/डा. घ. पाललहारा, जिला अंगुल, उड़ीसा।	

[सं. 76/उड़ीसा-वि.स./95(1)]

आदेश से,

के. पी. जी. कुट्टी, सचिव

ORDER

New Delhi, the 9th October, 1995

O.N. 77—Whereas, the Election Commission is satisfied that the contesting candidates specified in column (4) of the Table below at the General Election to the Orissa Legislative Assembly, held in 1995 as specified in column (2) and held from the Constituency specified in column (3) against his name has failed to lodge any account of his election expenses at all as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate has not furnished any reason or explanation for the said failure even after due notice, and the Election Commission is, thus, satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

TABLE

Sl. No.	Particulars of election	Sl. No. & Name of Constituency	Name and address of the candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to Orissa Legislative Assembly, 1995	39—Kissannagar	Sh. Padmalava Mishra Brahmanbhuin Kalarabanka, Raghunathpur, District Cuttack, Orissa.	Failed to lodge any account of election expenses.
2.	-do-	-do-	Sh. Ratnakar Dalai Palada, Nemala, Cuttack, Orissa	-do-

1	2	3	4	5
3.	General Election to Orissa Legislative Assembly, 1995	46—Banki	Sh. Kanhu Charan Majhi, Vill. Dholakatha, P.O. Talabasta, Dist. Cuttack, Orissa.	Failed to lodge any accounts of election expenses
4.	-do-	95—Khariar	Sh. Indramani Baghel At/P.O. Nehena, Dist. Nawapara, Orissa.	-do-
5.	-do-	-do-	Sh. Purna Satnami At/P.O. Sadi Dist. Nawapara, Orissa.	-do-
6.	-do-	106—Titilagarh (SC)	Sh. Bhaktabandhu Deep At/Jamkani, P.O. Bankel, P.S. Sindhekela, Dist. Bolangir Orissa.	-do-
7.	-do-	107—Kantabanji	Sh. Amar Biswal At. Sareibahal P.O. Tankapani, P.S. Khaprakhhol, Dist. Bolangir, Orissa.	-do-
8.	-do-	-do-	Sh. Shyam Sunder Meher At. Malpada P.O. Bagdore, P.S. Khaprakhhol, Dist. Bolangir, Orissa.	-do-
9.	-do-	117—Hindol (SC)	Sh. Kalia Naik At. Fasigan, P.O. Kalikaprasad, P.S. Rasol, Dist. Dhenkanal Orissa.	-do-
10.	-do-	118—Dhenkanal	Sh. Bedadhyana Panda Deulsahi, Dist. Dhenkanal, Orissa	-do-
11.	-do-	118—Dhenkanal	Sh. Dhtuba Narayan Jee, Cinema Road, Dhenkanal, Dist. Dhenkanal, Orissa.	-do-
12.	-do-	-do-	Sh. Rabindra Naik Khamarsahi, P.O. /Dist. Dhenkanal, Orissa.	-do-

1	2	3	4	5
13.	General election to Orissa legislative assembly, 1995	119—Gondia	Sh. Dai Nath At. Umakantapur, P.O. Mahapda, Dist. Dhenkanal, Orissa.	Failed to lodge any account of election expenses
14.	-do-	121—Pallahara	Sh. Bhagaban Pradhan Vill./P.O. Jayapura, Kateni, Dist. Dhenkanal Orissa.	-do-
15.	-do-	-do-	Sh. Satyabadi Sahu Vill./P.O. Pallahara, Dist. Angul, Orissa.	-do-

[No. 76/OR—LA/95 (I)]

By Order,

K.P.G. KUTTY, Secy.

IN THE HIGH COURT OF DELHI

Date of decision : August 9, 1994

ELECTION PETITIONS NO. 11 OF 1994, 12 OF 1994 AND 13 OF 1994

Dr. A. K. WALIA.....through
Mr. Lovkesh Sahni.....ADVOCATE
versus

Election Commission & other.....
.....through : Mr. R. P. Bansal Sr.
Advocate.....with Mr. Sanjay
Poddar.....and Mr.
M. C. Garg.....Advocates
CORAM

THE HON'BLE MR. JUSTICE R. C. LAHOTI .

- Whether Reporters of local papers may be allowed to see the judgment.
- To be referred to the Reporter or not ?

R. C. LAHOTI. J.

This order shall govern the disposal of three election petitions, namely, EP 11/94, EP 12/94 and 13/94. The respondent No. 3 in each of the petitions is different. Shri K. R. Malkani, O. P. Kohli and Mr. Vijay Kumar Malhotra are respectively respondent No. 3 in each of the three petitions. Other parties are common including the petitioner Dr. A. K. Walia.

2. The petitioner is a member of newly constituted Delhi Legislative Assembly from Gita Colony constituency. This Legislative Assembly constituency constitutes the electoral roll under Section 21-A(3) of the Representation of the People Act, 1950 for the purpose of election to the three Rajya Sabha constituencies allotted to the Union Territory of

Delhi as per the Fourth Schedule of the Constitution. The Election Commissioner of India issued three different notifications on three different dates for election to be held by separate ballots for filling that abovesaid three vacant seats. The three respondents who are all members of Bhartiya Janta Party filed their nominations against the abovementioned three seats and they were declared elected unanimously and not opposed on 27-1-1994 as per provisions of Section 53(2) of the Act. The election of the three respondents is under challenge in the three election petitions.

3. The ground of challenge is singular, it is submitted that there should have been a single notification for election to the three seats and the election should have been held by adopting the process of single transferable vote. If only that would have been done the concept of proportionate representation would not have been frustrated and all the three seats could not have gone to Bhartiya Janta Party : at least the third seat could have gone to a candidate not belonging to Bhartiya Janata Party. It is submitted that on account of wrong process of election having been adopted the three respondents have got declared elected by simple majority.

4. A more detailed statement of facts and a detailed reference to several relevant provisions of law is being avoided inasmuch as it was rightly conceded at the bar that the question of law arising for decision in the three petitions is covered by two decisions of this Court, one of which is a Division Bench decision binding as a precedent on this court.

5. In Surindra Pal Ratawal vs. Shamim Ahmed AIR 1985 Delhi 22, is a single bench decision wherein in similar set of facts and having examined the relevant legal provisions of the Constitution and of the Representation of the People Act, this Court had held :

"it cannot be said that when there are two or more regular vacancies at the time of the issue of the notification, no separate elections would be legally or constitutionally permissible and that the elections should be held together so that the system of proportional representation by means of a single transferable vote can be applied to those elections. The system of election by proportional representation by means of single transferable vote, can work even if one vacancy has to be filled.

The system of proportional representation really points to the method of election. What appear to be intended by the system is to give a choice to each elector of as many preferences as there are candidates in the field so that the members of electoral college can have free and full choice as against majority system which restricts the choice to one of the contesting candidates.

Further, the election being a right created by the statute, it must be subject to the limitations imposed by the statute. There is no express or even implied provision which prohibits the holding of two separate elections for two separate vacancies. Neither the language of Art. 80 nor any of the provisions of the Act or the Rules framed thereunder require that the filing of two different or separate vacancies should also be done by holding elections jointly and simultaneously.

6. The Division Bench decision in *A. K. WALIA vs. UNION OF INDIA* 53 (1994) DLT 279 applies to the case at hand on all the four. In fact, this

very petitioner had challenged the very same notifications of the Election Commission of India by filing a writ petition. The Division Bench has held —

"The Respondents are not having any discretion in the matter if the elections are held separately for three categories of the seats consistently but if the discretion is to be left to the respondents to hold elections for seats falling vacant at different times simultaneously after keeping the elections in abeyance for some periods then such discretion is liable to be abused for favouring one party or the other. Even Section 12 of the Representation of the People Act contemplates the issuance of one or more than one notifications for holding separate elections for different seats".

7. The decision of the single Bench in *Surindra Pal's case* (supra) was also cited with approval before the Division Bench in *A.K. Walia's case*.

8. That being the position of law all the three petitions are held liable to be dismissed and are dismissed accordingly. Respondent No. 3 in each of the petitions would be entitled to costs quantified at Rs. 500/- only.

9. Let one copy of this order be placed on the record of each of the three petitions.

August 9, 1994.

Sd./-

R. C. LAHOTI,
(Judge)